

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 1420 of 1986****For Approval and Signature:****HONOURABLE MR.JUSTICE KS JHAVERI**

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MANIBEN WD/O KARSANBHAI & 6 - Appellant(s)
Versus
KOLI KANJI JETHABHAI & 2 - Defendant(s)

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Appearance :

MR NIRAV C THAKKAR for Appellant(s) : 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4,
1.2.5, 1.2.6,1.2.7
NOTICE SERVED for Defendant(s) : 1 - 2.
MR RAJNI H MEHTA for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**Date : 01/09/2006****ORAL JUDGMENT**

1.0 The present appellants are the heirs and legal representatives of the original claimant i.e. deceased-Karshanbhai Parbatbhai. By way of this appeal, the appellants have challenged the judgment and award of the Motor Accident Claims Tribunal(Auxi.), Junagadh passed in M.A.C.P. No.554 of 1984 dated 05.05.1986 whereby the Tribunal partly allowed the said petition.

2.0 The brief facts of the case are that on 12.09.1984, when deceased-Karshanbhai was passing from the place of incident he was dashed by a vehicle driven in reverse by present opponent No.1 and owned by present opponent No.2. On account of the said accident deceased received serious bodily injuries, and hence, he filed a petition claiming an amount of Rs.75,000/- by way of compensation.

2.1 In the said petition, after hearing the parties, the Tribunal awarded an amount of Rs.16,500/- by way of compensation along with interest at the rate of nine per cent. Since, the compensation awarded was insufficient, the deceased preferred present appeal against the judgment award and award of the Tribunal.

3.0 Heard learned Counsel for the appellant as well as opponent No.3. Though, served none appears on behalf of the opponent Nos. 1 and 2. It was the case of the deceased before the

Tribunal that on the day of incident, while he was standing near Ramvas chowk, he was dashed by opponent No.1 who was driving the vehicle in question in reverse motion, in a rash and negligent manner. It may be noted that opponent Nos. 1 and 2 neither filed any written statements before the Tribunal nor they stepped into witness box to controvert the story of the petitioner. Hence, the story put forward by the appellant remains unchallenged. The Tribunal, therefore, is justified in coming to the conclusion that the deceased sustained injuries on account of the sole negligence on the part of the opponent No.1, and hence, he is entitled for compensation.

3.1 While considering the aspect of compensation, the Tribunal has taken into consideration the medical and other evidence available on record. Looking to age of the deceased, the nature of injuries sustained by him and considering the fact that he was earning Rs.400/- to Rs.500/- per month, the compensation

awarded by the Tribunal, in my opinion, is just and reasonable. No case has been made out by the appellants for enhancement of the amount of compensation. I am in complete agreement with the reasonings given and the findings arrived at by the Tribunal, and hence, do not find any reason to interfere in this appeal.

4.0 In the result, the appeal is dismissed.
No order as to costs.

(K. S. Jhaveri, J.)

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